

### **Remarks Made in Amendment**

#### **I. Introduction**

Claims 1-15 stand rejected. Claims 5-8 are rejected under 35 U.S.C. 101 under the recent Federal Circuit Court case of *In re Bilski et al*, 88 USPQ 2d 1385 CAF (2008) for failure (1) to be tied to a particular machine or (2) to transform the underlying subject matter to a different state or thing. Applicant notes that the Examiner has lumped independent claim 8, which clearly recites a particular machine – an integrated emergency medical transportation database system. Applicant believes that this may have been inadvertent and requests that the 35 U.S.C. 101 rejection of Claim 8 be withdrawn.

Applicant cancels claims 5-7. Applicant further amends independent claims 1 and 8, and support for this amendment is found in the specification at page 12, lines 2-10. Applicant has amended claims 2 and 9 to more particularly claim the invention. Finally, Applicant has added claims 16 and 17, and support for this amendment is found in the specification at page 12, lines 17-25. No new matter has been added by these amendments.

Regarding the pending rejections of claims 1-4 and 8-15, Applicant respectfully disagrees as follows:

#### **II. Discussion of Rejection of Independent Claims 1 and 8 under 35 U.S.C. 103(a)**

The Examiner has rejected independent claims 1 and 8 under 35 U.S.C. 103(a). In particular, the Examiner has rejected independent Claims 1, 5, and 8 under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 5,911,132 to Sloane in view of U.S. Patent No. 6,543,903 to Fogel and U.S. Patent No. 6,704,720 to Aria.

In rejecting Claim 1, the Examiner conceded that Sloane does not expressly teach a demographic audit module in communication with the medical emergency database or that the demographic audit module is configured to determine whether sufficient patient demographic data exists in the medical emergency database and to search other databases in an attempt to obtain missing demographic information and retrieve at least a portion of the missing demographic information from at least one of the other databases. However, relies on Fogel and Aria to fill this gap, stating:

Fogel teaches determining the data integrity of data contained in healthcare databases. (Fogel; Col. 5, line 25 to Col. 6 line 15) This includes determining if data is complete. (reads on 'determine whether there is sufficient data...') (Fogel; Col 9, lines 60-63). Fogel also teaches a "Prospective Data Integrity Audit" in which a list of data integrity issues is generated with likely causes and suggested

fixes (reads on “attempt to obtain missing information”)(Fogel; Col. 9, lines 1-6). One of ordinary skill in the art would be motivated to vary these teachings in order to audit data and ensure that a given set of data is valid. (Fogel; Col. 5, Lines 13-15). Aria Teaches if a retrieved record has missing data then a systematic information retrieval can be executed to retrieve the missing data (Aria; Col. 4, lines 33-46).

Applicant respectfully submits that Claim 1 is not obvious in view of these references. Beginning first with the Sloane and Fogel combination, neither reference teaches or suggests a demographic audit module configured to determine whether sufficient patient demographic data exists in the medical emergency database, and search other databases in an attempt to obtain missing demographic information. The Examiner has agreed that Sloane does not teach such a demographic audit module, and Applicant respectfully submits that Fogel similarly fails to teach this claimed feature for the reasons set forth below.

It should further be noted that the applicant has amended Claims 1 and 8 to clarify that the demographic audit module searches other databases in an attempt to obtain missing demographic information from at least one of the other databases. Nothing in Fogel or Sloane teaches or suggests such a limitation. To the contrary, Fogel is generally directed to a system for identifying data integrity issues, and showing how they can be either resolved or addressed adequately *by ancillary documentation* – not from the other databases. Fogel 3:33-36. Moreover, the Fogel system can identify data validity problems and correct them prior to data submission. Fogel 3:62-65. The data can be checked and a report generated which identifies data having a score corresponding to the integrity of the data, along with suggestions for resolving any data validity problems. This report can be provided in real time to the facility, which is then able to revise the data in response to this real time report, prior to data submission. Fogel 6:53 – 7:3. Fogel further states that “[c]linicians and other evaluators are to use the results of the Prospective Data Integrity Audit either to correct errors or to improve documentation for the clinical record.” Fogel 8:14-17. Ultimately, Fogel merely identifies potential data validity problems, prompts a user to determine whether a problem exists, and thus relies upon the user to further review and correct any data. Thus, Fogel clearly does not disclose searching other databases in an attempt to obtain missing demographic information from these databases.

Sloane also admittedly does not search other databases for the missing information in an attempt to obtain *the information from those databases*. For example, Sloane states:

“One of these processes is a so-called daemon 80 which continuously scans the patient transactions, e.g., transactions for which an outcome (e.g. ‘recovered after five days’) is not recorded. Upon finding such records, the daemon sends an e-mail to the originating e-doc or the patient in an attempt to obtain the missing information.” Sloane 7:56-67.

As in Fogel, the system of Sloane attempts to obtain information from the clinician – not the other databases, as is required by claims 1 and 8.

Therefore, Fogel and Sloane do not teach or suggest the required element that the demographic audit module “search other databases in an attempt to obtain missing demographic information from at least one of the other databases.”

And because Fogel and Sloane have a method and solution for retrieving information, i.e., seeking it from a human operator (i.e., a clinician, e-doc or patient), there is simply no need, teaching or suggestion to retrieve the information from the other databases as is required by pending claims 1 and 8. In other words, there is no reason a person of ordinary skill in the art would combine Sloane and Fogel, with Aria, to meet the further limitation of claims 1 and 8 that the demographic audit module “retrieve at least a portion of the missing demographic information from at least one of the other databases.”

As the cited prior art does not teach the necessary elements of Claims 1 and 8, Applicant respectfully submits that these independent claims are not obvious in light of the cited art. Because claims 2-4, and 9-17 depend from Claims 1 and 8, Applicant respectfully submits that they are patentable over the cited art for at least the reasons discussed above. Furthermore, except as discussed below Application does not necessarily agree with the characterization of dependent claims or prior art made in the rejection of the dependent claims.

### **III. Discussion of Rejection of Dependant Claims 2, 3, 9, and 10 under 35 U.S.C. 103(a)**

With regards to claim 2 (and by incorporation claim 9), the Examiner admits that Sloane does not teach a demographic audit module configured to document one or more attempts to obtain any missing information, as required by the claim. The Examiner however, maintained a rejection arguing that “Sloane does teach a daemon scanning the records looking for incomplete transactions and then sending an e-mail to obtain the missing information.” All Sloan teaches is a search of a single database (patient records database 78) for an incomplete records, and then sends an email to the doctor or patient in an attempt to obtain the missing information. (Sloane 7:57-67). This is fundamentally different than the present claims, where other databases are searched to obtain the missing demographic information. In other words, Sloane only teaches recording the identification of missing information through an email, but does *not record the attempt at obtaining the information itself*, which is required by the claims. None of the cited references teach, disclose or suggest recording the attempts “to obtain missing demographic information from at least one of the other databases”.

Moreover, the Applicants have added claims 16 and 17 which are dependent on claims 2 and 9, respectively, each claim of which adds the further limitation that, subsequent to the recordation of the attempts, a search of the database for the missing

information is based on the previous recollection of the attempts. Again, like claims 2 and 9, none of the cited references teach, disclose or suggest this additional claim limitation.

Regarding claim 3 (and by incorporation claim 10), the Office Action admits that Sloane does not disclose modifiable data collection rules associated with payer type to determine whether sufficient patient demographic data exists in the medical emergency database. The Examiner however, maintained a rejection arguing that Fogel “teaches determining the data integrity of data contained in healthcare databases ... this include determining if the data is complete.” Respectfully however, this argument misses a critical element of claim 3, which is to add an additional limitation of “apply[ing] modifiable data collection rules associated with a payer type.” Admittedly, nothing in Sloane has any mention or teaching of such a limitation. Rather, the Examiner argument bypasses this initial limitation that the data collection rules themselves are modifiable and associated with a payer type, and addresses only the data integrity portion of the limitation relying exclusively on Fogel. Claim 3 requires more, and therefore the Examiner has not made the prima facie showing of obviousness.

#### **IV. No Disclaimers or Disavowals**

Although the present communication includes characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

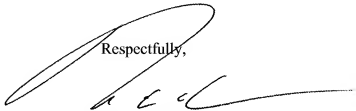
#### **V. Request For Interview Under MPEP 713.01**

Should the Examiner believe the application is not in condition for allowance despite the amendments and remarks, Applicant requests an interview with the Examiner to help expedite the case to final action. The Examiner is invited to contact Applicant's attorney at the telephone number below to set up a time for a telephone interview.

**VI. Conclusion**

For at least the above reasons, Applicant respectfully submits that the pending claims are patentable over the cited prior art. The Applicants respectfully submit that these claims and all of the remaining dependant claims are therefore in condition for allowance.

Respectfully,

A handwritten signature in black ink, appearing to read 'M. de la Cerra', written over a horizontal line.

Dated: October 19, 2009

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